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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Myanmar

Report of the Secretary-General

1. The present report is submitted pursuant to paragraph 19 of General Assembly resolution 50/194 of 22 December 1995, entitled "Situation of human rights in Myanmar", in which the Assembly requested me to continue my discussions with the Government of Myanmar in order to assist in its efforts for national reconciliation and in the implementation of that resolution, and to report to the Assembly at its fifty-first session and to the Commission on Human Rights at its fifty-second session.

2. As I have indicated in previous reports (see A/49/716 and A/50/782) I consider the role entrusted to me by the General Assembly to be one of good offices, as distinct from the fact-finding mandate assigned by the Human Rights Commission to the Special Rapporteur.

3. Since the adoption of resolution 50/194, my representatives have held three rounds of talks in New York and at Bangkok with the Minister for Foreign Affairs of Myanmar, U Ohn Gyaw. Members may be aware from my report to the Commission on Human Rights (E/CN.4/1996/65 of 5 February 1996) that in February 1996 I approached the Permanent Representative of Myanmar to the United Nations with the proposal that my Representative, Mr. Alvaro de Soto, Assistant Secretary-General for Political Affairs, visit Yangon for a new round of talks in advance of the fifty-second session of the Commission. The Government of Myanmar responded that, owing to the leadership's tight schedule, it would not be able to receive my Representative until after the month of August. After further consultations, it was agreed that a meeting would be held instead at United Nations Headquarters in New York between the Foreign Minister of Myanmar and my Representative on 4 April 1996.

4. Following the developments at the end of May 1996 in connection with a meeting organized by the National League for Democracy (NLD) to commemorate the sixth anniversary of the party's victory in the 1990 elections and the subsequent detention of a large number of NLD members invited to participate at that event, I suggested that Mr. Francesc Vendrell, the Director of the East Asia and the Pacific Division of the Department of Political Affairs, who was in South-East Asia at the time, visit Myanmar in order to enable me to receive a first-hand account of the situation. The Government replied proposing instead a meeting in Bangkok with the Minister for Foreign Affairs who was on a tour of some South-East Asian countries at the time. The meeting took place in Bangkok on 15 June 1996.

5. On 6 August I wrote a letter to Senior General Than Shwe, Chairman of the State Law and Order Restoration Council and Prime Minister of the Union of Myanmar, in which I underscored the importance, for the adequate discharge of my mandate, of visits to Myanmar by my representatives in order to meet with the authorities and other relevant political personalities in the country and proposed that Assistant Secretary-General for Political Affairs Alvaro de Soto visit Myanmar in early September. Foreign Minister U Ohn Gyaw, in New York for the current session of the General Assembly, conveyed to the Assistant Secretary-General an oral message from Lieutenant-General Khin Nyunt, Secretary-1 of the State Law and Order Restoration Council, reiterating his Government's wish to continue the dialogue with me but expressing the view that such a dialogue need not be held inside Myanmar but could equally well take place outside. During his meeting with my Representative, the Foreign Minister pointed out that his Government was ready to receive visits by my representatives, but that it could not agree to private meetings with all the personalities I regarded essential for the discharge of my mandate.

6. In the weeks following, further discussions have been held with a view to enabling my Representative to visit Myanmar prior to the submission of the present report. Unfortunately it has not yet been possible to reach agreement on modalities that would be in conformity with the mandate entrusted to me by the General Assembly.

7. Apart from visits by my representatives to Myanmar and the evolution of the situation in the country, the discussions with the Minister for Foreign Affairs have centred on the basic issues on which the General Assembly has repeatedly expressed concern, in particular the composition, procedures and functioning of the National Convention; the withdrawal and subsequent expulsion from the Convention of NLD; the opening of a dialogue between the State Law and Order Restoration Council on the one hand and the principal political leaders, including Daw Aung San Suu Kyi, as well as representatives of the national races and ethnic groups, on the other; restrictions on political freedoms, including the proclamation of Law No. 5/96 of 7 June 1996; the situation of political prisoners and detainees, as well as prison conditions, reports of forced labour and porterage; and reports of military actions against certain ethnic groups, including the Karens and the Karennis, resulting in further internal displacements and refugee outflows.

8. The Foreign Minister for his part conveyed information about the progress achieved by the National Convention in the drafting of constitutional guidelines

through the adoption of the chapters dealing with the legislature, the executive and the judiciary. The Convention had so far adopted 15 "chapter headings" and 104 "fundamental principles" that would form the basis of the new Constitution. At its resumed session it would discuss issues of power-sharing between the central Government and the component states and divisions. It would be up to the Convention to determine eventually how the Constitution should be finally drafted and approved.

9. The Foreign Minister discarded the possibility of effecting changes in the composition and functioning of the National Convention on the grounds that it was fully representative of the various strata of the population of Myanmar and that it was the only "disciplined" forum capable of delivering a strong Constitution. The decision taken by NLD at the urging of Daw Aung San Suu Kyi, on 28 November 1995, to suspend its participation in the National Convention on the grounds that the Convention was not truly representative and the views of NLD were not taken into account, had led to the automatic expulsion of its members under the rules laid down in the Convention's procedures. Had NLD remained in the Convention it would have had the opportunity of making its views known as it had done in the past. A dialogue with the NLD leadership, including Daw Aung San Suu Kyi, was not possible outside the framework of the National Convention, which was the forum for such a dialogue.

10. The Government considered that Myanmar's priority was "national reconsolidation" and the eradication of national insurgencies. The insurgencies would lay down their arms once the Constitution was adopted and they would only do so with a disciplined Government, and not with a civilian Government. Military rule was thus necessary until the Constitution was firmly established. Thereafter, the military did not intend to form a political party, but would continue to take part in the political life of the nation.

11. The Foreign Minister stated that the Government was not supporting the Democratic Kayin Buddhist Army against the Karen National Union (KNU) as had been alleged. The Government and KNU had met on three occasions in government-controlled territory, and it was a matter of time before KNU returned to the legal fold. As for the Karenni National Progressive Party (KNPP), it had come back to the legal fold as a result of the Government's persuasion, and not under a ceasefire agreement. KNPP was now claiming sole control of the area concerned and was declaring that the government side had broken a ceasefire agreement that had never been signed.

12. Regarding political prisoners, the Foreign Minister stated that his Government made no distinctions between political and common prisoners. People whose behaviour was not in line with the law were punished. Though Myanmar had to adhere to its own internal laws and regulations, it had not closed its door to a possible agreement with the International Committee of the Red Cross.

13. While I am appreciative of the expressed readiness of the Government of Myanmar to pursue a dialogue with me on matters of concern to the international community, I cannot hide my disappointment that it has not been possible, since the adoption of General Assembly resolution 50/194 a year ago, for my representatives to visit Myanmar. It is my considered view that, for the adequate discharge of my mandate, it is essential for my representatives to meet

with the highest governmental authorities as well as with leaders of other relevant political forces. I must also express my regret that no progress can be reported, since my last report to the General Assembly, in the areas on which the General Assembly and the Human Rights Commission have repeatedly expressed their concern. I am firmly convinced that the opening of a genuine political dialogue between the State Law and Order Restoration Council and the leaders of the political party that won a clear majority in the 1990 elections and of other relevant political forces, including the national races and ethnic groups, is essential to achieve the Government's stated objectives of democratization and national reconciliation and to assuage the concerns that have been repeatedly expressed in the General Assembly and the Commission on Human Rights about Myanmar. I wish to take this opportunity to reiterate my commitment to continue my efforts towards the achievement of these goals.